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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )

Redevelopment of Spectrum to )  
Encourage Innovation in the )  
Use of New Telecommunications )  
Technologies )

ET Docket No. 92-9

To: The Commission

COMMENTS OF FLEET CALL, INC.

FLEET CALL, INC.

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## TABLE OF CONTENTS

SUMMARY . . . . .	i
I. INTRODUCTION . . . . .	1
II. BACKGROUND . . . . .	4
III. DISCUSSION . . . . .	5
A. Successful Implementation of Emerging Technologies Requires Assurance of Adequate Spectrum . . . . .	6
B. The Commission Should Grant PCS Authorizations Through Competitive Bidding Procedures . . . . .	9
C. The Commission Should Reward Emerging Technologies Pioneers . . . . .	11
IV. CONCLUSION . . . . .	12
SERVICE LIST	

### SUMMARY

Fleet Call, Inc. ("Fleet Call") supports the Commission's proposal to designate 220 MHz in the 1.85 - 2.20 GHz band for Personal Communications Services ("PCS") and other new and innovative services made possible by emerging technologies.

The Commission proposes a ten-year transition program to relocate existing licensees in the 1.85 - 2.20 GHz bands to other spectrum assignments. Transition issues present the most difficult challenges in the proposed reallocation. Existing licensees have legitimate concerns which require thoughtful and creative Commission action. Fleet Call supports the Commission's proposal to protect existing licensees and permit prospective new service providers to negotiate financial and other arrangements for using the proposed emerging technologies spectrum.

Fleet Call urges the Commission to seek statutory authority to select emerging technology licensees through competitive bidding procedures. The Commission's existing licensing mechanisms -- comparative hearings and lotteries -- will be overwhelmed by speculative PCS applications causing excessive licensing delay, lost service opportunities and inflated costs. Auctions, on the other hand, will control speculation, reward sincere applicants and better assure that emerging technologies spectrum is expeditiously available for advanced mobile communications services.

Fleet Call also supports the expeditious award of PCS pioneer's preferences to deserving applicants. The Commission

should reward entities that have expended substantial resources in developing legitimate, spectrally-efficient innovations that will advance the delivery of personal communications services.

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I. INTRODUCTION

Fleet Call, Inc. ("Fleet Call"), pursuant to Section 1.415 of the Commission's Rules, hereby respectfully files its Comments in response to the Notice of Proposed Rulemaking (the "Notice") in the above-captioned proceeding.<sup>1/</sup>

Fleet Call is one of the largest licensees and operators of Specialized Mobile Radio ("SMR") systems in the United States. It provides dispatch, interconnected and ancillary mobile communications services to private radio eligibles under terms and conditions specified in the Communications Act of 1934, as amended (the "Act"), and the Rules and Regulations of the Federal Communications Commission (the "Commission").<sup>2/</sup> Fleet Call's customers include businesses such as delivery services, utilities,

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<sup>1/</sup> 7 FCC Rcd 1542 (1992).

<sup>2/</sup> Fleet Call is licensed as a private for-profit carrier in the Private Land Mobile Radio Service under Part 90 of the Commission's Rules.

plumbers, electricians and other service and repair personnel, as well as ordinary individuals, who rely on mobile radio to "stay-in-touch" with their offices, employees and clients and do their jobs more efficiently. The Company and its subsidiaries serve approximately 135,000 mobile users on both 800 MHz and 900 MHz SMR systems.

On February 13, 1991, the Commission authorized Fleet Call to construct and operate Enhanced Specialized Mobile Radio ("ESMR" or "Digital Mobile") systems in Chicago, Dallas, Houston, Los Angeles, New York and San Francisco.<sup>3/</sup> Fleet Call's ESMR systems will combine state-of-the art digital multiplexing technology with a low power multiple base station configuration to increase by more than 15 times the capacity of its existing SMR systems in each market. The Company has committed \$350 million to implementing its ESMR mobile communications systems. The first ESMR system will be operational in Los Angeles in mid-1993, followed by San Francisco in 1994.<sup>4/</sup>

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<sup>3/</sup> In re Request of Fleet Call, Inc. for Waiver and Other Relief to Permit Creation of Enhanced Specialized Mobile Radio Systems in Six Markets, 6 FCC Rcd 1533 (1991), recon. den. 6 FCC Rcd 6989 (1991).

<sup>4/</sup> Fleet Call is also responding to the public's increasing desire for wide-area, regional and national private land mobile communications networks. On April 23, 1992, it filed a Petition for Rulemaking asking the Commission to auction "innovator blocks" of vacant 800 MHz SMR spectrum in markets throughout the country. Much of this unused spectrum has been available for a decade and is located near the major markets where advanced digital SMR systems are already being developed. The proposal would promote the construction of advanced, digital SMR systems in the smaller markets thereby accelerating the creation of a seamless, nationwide digital SMR network. In addition, using auctions to license the  
(continued...)

Through its ESMR systems, Fleet Call is pioneering the introduction of advanced, spectrally-efficient Digital Mobile communications technology. Fleet Call's Digital Mobile concept offers an optimum infrastructure for initiating new Personal Communications Systems ("PCS") in the 1850 - 1990 MHz band. Fleet Call's use of Digital Mobile technology constitutes an innovative proposal that will lead to the establishment of new PCS services -- just as it has facilitated the development of enhanced SMR communications systems. Accordingly, Fleet Call has filed a request for a pioneer's preference in the licensing of PCS services in the Greater Los Angeles Metropolitan Area.<sup>5/</sup> Fleet Call is the only pioneer's preference applicant to present to the Commission its technological innovations and commit to their implementation. It is precisely the type of innovator whose efforts should be recognized by award of a PCS pioneer's preference.

The Notice states that reallocating spectrum for emerging technologies will complement the Commission's pioneer's preference objectives by fostering the development of new technologies and services.<sup>6/</sup> Accordingly, Fleet Call supports the Commission's proposal to make spectrum available in the 1.85 - 2.2 GHz bands for

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<sup>4/</sup>(...continued)  
innovator blocks would generate hundreds of millions of dollars for the U.S. Treasury -- for the first time compensating the public for the for-profit use of public spectrum resources.

<sup>5/</sup> Fleet Call's Request for A Pioneer's Preference, General Docket 90-314, filed May 4, 1992.

<sup>6/</sup> Notice at para. 8.

emerging telecommunications technologies, as discussed below.

## II. BACKGROUND

The Notice proposes designating 220 MHz of spectrum in the 1.85 - 2.20 GHz bands for emerging telecommunications technologies, such as PCS, a digital audio broadcasting service, mobile satellite service, and low earth orbit satellites.<sup>7/</sup> The Commission stated that the current lack of available spectrum for new technologies has a "chilling effect" on the willingness of manufacturers and financial institutions to develop and fund new communications research and technologies.<sup>8/</sup> Creating an emerging technologies band, the Commission concluded, would provide some of the structure needed for manufacturers to develop advanced communications equipment and services. This would further the Commission's mandate to encourage the provision of new technologies and services and the larger and more effective use of radio in the public interest.<sup>9/</sup>

Accordingly, the Commission proposed reallocating 220 MHz currently allocated for private and common carrier microwave services for new mobile communications technologies or expansion of existing services. The proposal includes a ten-year transition program to reaccommodate existing 2 GHz licensees in the higher frequency bands that provide for similar services. The Commission

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<sup>7/</sup> Specifically, the Commission proposes reallocating the following bands: 1.85 - 1.99, 2.11 - 2.15 and 2.16 - 2.20 GHz.

<sup>8/</sup> Notice at para. 7.

<sup>9/</sup> See Sections 7 and 303(g) of the Act.



would allow marketplace forces to expedite the transition by permitting negotiated financial arrangements between emerging technology licensees and existing licensees for access to the emerging technology spectrum. State and local government licensees (including public safety providers) would be exempt from the mandatory transition.

### III. DISCUSSION

With appropriate safeguards for existing users, Fleet Call supports the Commission's proposal to designate 220 MHz in the 1.85 to 2.20 GHz band for PCS and other new and innovative services made possible by emerging technologies. Advances in digital signal processing technology have created a virtual cornucopia of innovative mobile and personal communications service possibilities. The availability of sufficient spectrum capacity, however, is an essential factor in convincing manufacturers and capital providers to commit to the research, development and perfection of these advanced communications technologies. Fleet Call's experience supports the Commission's conclusion that the current lack of available spectrum for these services retards their development and thereby delays the availability of advanced services to the public.<sup>10/</sup>

In the Notice, the Commission observed that the land mobile spectrum reserves established in the early 1970s furthered the introduction of new cellular and private land mobile trunked

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<sup>10/</sup> Notice at para. 7.

services using that spectrum.<sup>11/</sup> Creating spectrum for emerging technologies is similarly necessary to bring these new mobile and personal communications technologies to the marketplace.

A. Successful Implementation of Emerging Technologies Requires Assurance of Adequate Spectrum

The Notice acknowledges the challenges inherent in reallocating the 1.85 - 2.20 GHz bands for new, primarily mobile, services while minimizing the impact of the transition on existing licensees and users. There are a large number of existing operations in these bands -- many of them providing important, public safety-related communications capabilities. For example, state and local governments operate microwave links in public safety communications systems. Utilities use microwave facilities in the 1.85 - 2.20 bands for essential control and monitoring functions, including water distribution, electric generation and distribution, railroad operations, etc.

While it may be feasible to relocate many of these stations to other (higher) common carrier and private operational fixed microwave frequencies, many questions concerning costs, impact on operational reliability, propagation effects and other technical considerations must be resolved. Transition implementation questions present the single most difficult issue in the Commission's proposed reallocation.<sup>12/</sup> There have already been

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<sup>11/</sup> Ibid.

<sup>12/</sup> Some entities may oppose reallocation of the 1.85 - 2.20 GHz bands for emerging technologies and suggest other spectrum for these services.

Congressional inquiries, additional proposed rulemakings, intensive industry debate and numerous articles and press reports concerning both practical and theoretical ramifications of the proposed transition. The fact is that the proposed reallocation of the 1.85 - 2.20 GHz bands for emerging technologies will be complex, controversial, contentious and time-consuming. Even under optimum circumstances, this process would take ten years and it is uncertain to what extent new services could be successfully implemented during the transition period.<sup>13/</sup>

Fleet Call emphasizes that implementation of the new personal communications services contemplated by the Commission requires that prospective providers are assured of primary status on sufficient spectrum to fully develop advanced services. Investors will not commit the funds needed for costly, capital-intensive digital and other advanced mobile communications technologies without having enough spectrum for economic operations and to accommodate future growth. Developing, perfecting and constructing advanced, digital, multiple base station-configured mobile communications systems is much more expensive than traditional, analog systems and requires greater capital commitments. This means that entrepreneurs and their sources of financing require a higher degree of certainty of obtaining a license for sufficient

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<sup>13/</sup> For example, some observers believe that PCS could have millions of subscribers within a few years of initiating service. If the Commission licenses PCS providers during the early years of a transition, there may not be sufficient spectrum in many markets to meet the demand for service or, conversely, to justify the expense of the necessary infrastructure.

spectrum for both present needs and a reasonable estimate of future expansion, and which can support services competitive with other mobile communications delivery sources.<sup>14/</sup>

The proposed reallocation must assure new emerging technology service providers of sufficient spectrum on an interference-free basis to justify the investment required to implement personal and other mobile communications innovations. The concerns of existing licensees are legitimate and require thoughtful solutions; at the same time, however, the reallocation will be unproductive if this essential requirement is not realized.<sup>15/</sup> New communications services will not be provided to the public if the Commission settles for any technologically uncertain compromises that inhibit the potential of clear emerging technologies spectrum.<sup>16/</sup>

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<sup>14/</sup> As advanced systems are introduced on a broad scale, higher volume will result in lower prices reducing the costs of both system infrastructure and customer mobiles.

<sup>15/</sup> In the event the Commission does not require existing microwave licensees to relocate, PCS licensees would need additional spectrum to provide sufficient flexibility to protect incumbents while maintaining sufficient PCS system capacity.

<sup>16/</sup> Fleet Call does not underestimate the painful process of displacing or relocating existing licensees inherent in the Commission's reallocation proposal. In contrast, Fleet Call is pioneering the introduction of advanced, spectrally-efficient Digital Mobile technology in the SMR industry that protects all existing SMR licensees in its planned service areas. Similarly, Fleet Call's recent proposal to auction innovator blocks of vacant 800 MHz SMR spectrum can be implemented expeditiously because it raises none of the complex issues involved in taking spectrum away from existing users. Innovator block systems would coexist with other SMR systems through compliance with the Commission's existing co-channel interference standards.

B. The Commission Should Grant PCS Authorizations Through Competitive Bidding Procedures

PCS is one of the most eagerly anticipated new communications services in history. There is little doubt that many thousands of applicants will actively seek PCS authorizations. Choosing among competing mutually exclusive competing applicants in these circumstances using the Commission's existing licensing mechanisms -- comparative hearings and lotteries -- will not serve the public interest. Among other deficiencies, these licensing mechanisms would delay the introduction of advanced services.<sup>17/</sup>

Comparative hearings are costly, time-consuming and administratively burdensome -- prohibitively so with large numbers of applicants. Lottery selection is an even less desirable option as it inevitably invites massive speculation for PCS authorizations resulting in "private auctions" as lucky lottery selectees sell their licenses to the real service providers. The Commission has used lotteries extensively in the common carrier, mass media and private radio services over the past seven years and has been unable to enforce standards or procedures effective in preventing

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<sup>17/</sup> For example, United Parcel Service's recent decision to use cellular radio for a nationwide package tracking service was a consequence of the Commission's inability to expeditiously grant licenses for the new 220 MHz nationwide authorizations. See "UPS Commits to Cellular Mobile Data; Says 220 MHz Not Forsaken," Industrial Communications, May 15, 1992. The licensing delays and inefficiencies inherent in both comparative hearings and lottery selection procedures frustrate the Commission's mandate to encourage the provision of new technologies and services to the public, as set forth in Section 7 of the Act.

widespread speculation.<sup>18/</sup> Whenever the Commission offers a valuable spectrum right for nothing, or for a minimum or even a significant fee,<sup>19/</sup> speculators with no intention of operating a communications system will inevitably apply and devise ingenious ways to increase their chances of profiting from "winning the lottery."<sup>20/</sup>

For these reasons, Fleet Call recommends that the Commission obtain authority for and adopt competitive bidding procedures to

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<sup>18/</sup> In particular, allowing prelottery settlement agreements has been an open invitation to speculators.

<sup>19/</sup> Creative applicants can "get around" even significant application fees by creating partnerships or joint ventures in which the participants share the application costs. Moreover, the Commission's authority to impose and collect filing fees is limited by statute and does not authorize charges that are not cost-based for the purpose of discouraging applications. Auctions provide a direct, market-based mechanism for preventing speculation and are therefore preferable to imposing arbitrary fees.

<sup>20/</sup> Fleet Call filed comments opposing lotteries and supporting the Commission's recent proposal to use comparative hearings to select among mutually exclusive applicants for the new 220 MHz nationwide authorizations. See Amendment of Part 90 of the Commission's Rules to Provide for the Use of the 220-222 MHz Band by the Private Land Mobile Radio Services, Further Notice of Proposed Rulemaking, PR Docket No. 89-552, 6 FCC Rcd 898 (1992). The 220 MHz nationwide authorizations provide exclusive spectrum rights for complex, far-reaching communications systems in multiple markets across the nation. Fleet Call stated that competitive bidding procedures would be the optimum licensing mechanism for these nationwide authorizations. As between lotteries and comparative hearings, however, Fleet Call stated that comparative hearings were necessary to "weed out" speculators and assure that licenses are granted to applicants both capable of and committed to expeditiously implementing nationwide 220 MHz systems. Several 220 MHz non-commercial nationwide applicants have no apparent need for nationwide, wireless internal communications systems -- the very purpose of this allocation -- and thus appear to be speculative. See Comments of Fleet Call, Inc., PR Docket No. 89-552, filed March 2, 1992; Reply Comments of Fleet Call, Inc., filed March 23, 1992.

award PCS authorizations.<sup>21/</sup> This would control speculation, reward sincere applicants and best assure that the new emerging technologies spectrum is expeditiously available for advanced communications systems. Moreover, auctions would generate substantial fees for the United States Treasury and thereby compensate the public for awarding private entities the right to make a profit using public resources. Accordingly, Fleet Call supports the Commission simultaneously seeking Congressional authorization of auction authority for granting licenses in the 1.85 - 2.20 GHz emerging technologies bands as it undertakes this reallocation.

C. The Commission Should Reward Emerging Technologies Pioneers

Over the past few years, the Commission has encouraged entrepreneurs to develop innovative personal communications services. The Commission has granted numerous experimental authorizations for the development and testing of various personal communications technologies. In addition, the recently-adopted pioneer's preference rules are intended to reward entities that develop innovative proposals that lead to the establishment of a service not currently provided or a substantial enhancement of an existing service.<sup>22/</sup> When the Commission suggested that an

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<sup>21/</sup> The Commission should, however, go forward with granting dispositive licensing preferences for PCS authorizations to deserving pioneer's preference applicants, as discussed below.

<sup>22/</sup> In the Matter of Establishment of Procedures to Provide a Preference to Applicants Proposing an Allocation for New Services, 6 FCC Rcd 3488 (1991), at para. 47.

experimental authorization could be a factor in granting a preference, it was flooded with experimental PCS applications. A total of 92 requests for a PCS pioneer's preference were filed prior to the May 4, 1992 deadline.

Fleet Call supports the expeditious award of pioneer's preferences for PCS and other emerging technologies. The Commission should expeditiously reward entities that have expended substantial funds and/or resources in developing legitimate spectrally-efficient innovations that can be used to initiate or advance the delivery of personal communications services. It should grant a dispositive licensing preference to pioneer's preference applicants with meritorious requests when it issues a Notice of Proposed Rulemaking on PCS. All other PCS licenses should be granted through competitive bidding procedures, as discussed above.

#### IV. CONCLUSION


This Notice initiates a proceeding in which the Commission is proposing to reallocate spectrum for the new, primarily mobile, communications services made possible by recent advances in wireless communications technology. These technologies offer a potential new era in convenient, ubiquitous mobile communications capabilities. Fleet Call does not underestimate the difficulties involved in the transition required to relocate existing licensees in the 1.85 - 2.20 GHz bands. These new services will not be deployed, however, unless the Commission makes sufficient suitable spectrum available.



Fleet Call recommends that the Commission obtain authority to use auctions to grant licenses in the proposed emerging technologies bands. This is the optimum licensing mechanism for controlling speculation and assuring that those entities most committed to and capable of providing advanced services obtain the necessary authorizations. Fleet Call also supports the Commission rewarding PCS pioneers with a dispositive licensing preference for PCS through its pioneer's preference provisions.

Respectfully submitted,

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Dated: June 5, 1992

**CERTIFICATE OF SERVICE**

I, Gary L. Smith, hereby certify that I have on this 5th day of June, 1992, sent by First Class mail, postage prepaid, a copy of the foregoing Comments of Fleet Call, Inc. to the following:

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